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15 Attorney for Third Party  
16 Motorola Mobility, Inc.

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13  
14 SAN FRANCISCO DIVISION

15  
16 ORACLE AMERICA, INC.,

17 Plaintiff,

18 v.  
19

20 GOOGLE INC.

21 Defendant.

Case No. 3:10-CV-03561-WHA

**DECLARATION OF THOMAS G.  
PASTERNAK IN RESPONSE TO  
THE JOINT ADMINISTRATIVE  
REQUEST TO FILE DOCUMENTS  
UNDER SEAL (Docket No. 507)**

Judge: Hon. William Alsup

Date Comp. Filed: October 27, 2010

Trial Date: October 31, 2010

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24  
25 I, Thomas G. Pasternak, declare as follows:

26 1. I am a partner at the law firm of Steptoe & Johnson LLP; counsel to Motorola  
27 Mobility, Inc., a third party for discovery in the present case. I submit this declaration pursuant to  
28

1 Local Rule 79-5 (d) and paragraph 11 of the Stipulated Protective Order [Docket. Nos. 66 and 68] in  
2 response to the Joint Administrative Request to File Documents Under Seal (Docket no. 507). I have  
3 knowledge of the facts set forth herein, and if called to testify as a witness thereto could do so  
4 competently under oath.

5 2. On September 8, 2011, Motorola employee Rafael Camargo was deposed in the  
6 present litigation. Portions of Mr. Camargo's deposition testimony were designated as "HIGHLY  
7 CONFIDENTIAL – ATTORNEY'S EYES ONLY" pursuant to the provisions of the Stipulated  
8 Protective Order.

9 3. On October 8, 2011, I was notified via e-mail by Yuka Teraguchi, counsel for  
10 plaintiff, that "Oracle's opposition to Google's Motion in Limine No. 5 (recently submitted to the  
11 Court under seal) and Exhibit 5-4 contain deposition testimony from Motorola's witness, Mr.  
12 Camargo, that Motorola designated Highly Confidential. If Motorola wishes this testimony to  
13 remain under seal, it must file a declaration with the Court within 14 days of receiving this notice,  
14 pursuant to Paragraph 11(c) of the Protective Order."

15 4. Attached hereto as Exhibit A is a true and correct copy of Mr. Teraguchi's October 8,  
16 2011 email.

17 5. After reviewing Oracle's opposition to Google's Motion in Limine No. 5 and Exhibit  
18 5-4, I determined that the information contained therein was and is highly confidential as defined in  
19 the protective order.

20 6. The information sought to be disclosed relates to the operation of Motorola's  
21 handsets and their operation and design and is of a sensitive business nature reflecting competitive  
22 and strategy decisions not known outside the confines of the company. Motorola does not disclose  
23 the designated material to the public in the normal course of business since it does not relate to an  
24 end-user's operation of the handsets. Disclosure of this material would cause great and undue harm  
25 to Motorola's business because it would allow its competitors access to the technical design of  
26 Motorola's handsets that is not even available by reverse-engineering.  
27  
28

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Chicago, Illinois on October 13, 2011.

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this efiled document.

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**DECLARATION OF THOMAS G. PASTERNAK IN RESPONSE TO THE JOINT  
ADMINISTRATIVE REQUEST TO FILE DOCUMENTS UNDER SEAL (DOCKET NO. 507)**

# **EXHIBIT “A”**

From: Teraguchi, Yuka  
[mailto:YTeraguchi@mofo.com]<mailto:[mailto:YTeraguchi@mofo.com]>  
Sent: Saturday, October 08, 2011 2:46 AM  
To: Pasternak, Thomas; Beaber, Jamie  
Cc: Muino, Daniel P.; Carnaval, Christopher  
Subject: Oracle v. Google, No. 3:10-cv-03561-WHA, Motorola Highly Confidential Information  
Filed Under Seal

Dear Mr. Pasternak and Mr. Beaber,

We write to notify you that Oracle's opposition to Google's Motion in Limine No. 5 (recently submitted to the Court under seal) and Exhibit 5-4 contain deposition testimony from Motorola's witness, Mr. Camargo, that Motorola designated Highly Confidential. If Motorola wishes this testimony to remain under seal, it must file a declaration with the Court within 14 days of receiving this notice, pursuant to Paragraph 11(c) of the Protective Order.

Please find attached: (1) Protective Order; (2) Google's motion in limine; (3) Oracle's Opposition to Google's motion in limine (redacted information is highlighted in yellow); (4) Exhibit 5-4 (the entire deposition excerpt has been redacted); and (5) parties' joint administrative request to file documents under seal.

<<Protective Order.pdf>> <<2011-10-07 Google MIL 5 - Motorola Mobility.pdf>> <<2011-10-04 Opp to Google MIL 5 (Motorola Mobility, Inc.) HIGHLY CONFIDENTIAL - AEO.pdf>>  
<<2011-10-04 Exhibit 5-4 HIGHLY CONFIDENTIAL - AEO.pdf>> <<2011-10-04 Parties' Joint Administrative Request to File Documents Under Seal.pdf>>

Best regards,

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To ensure compliance with requirements imposed by the IRS, Morrison & Foerster LLP informs you that, if any advice concerning one or more U.S. Federal tax issues is contained in this communication (including any attachments), such advice is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

# **EXHIBIT “B”**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. 3:10-CV-03561-WHA

Judge: Hon. William Alsup

**[PROPOSED] ORDER**

In accordance with the provisions of the Stipulated Protective Order [Docket Nos. 66 and 68] and Local Rule 79-5, the Court hereby orders that those portions of Oracle's opposition to Google's Motion in Limine No. 5 and Exhibit 5-4 thereto, which contain or refer to deposition testimony designated Highly Confidential are to be filed and to remain under seal.

DATED: \_\_\_\_\_, 2011

Hon. William Alsup

[PROPOSED] ORDER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of October, 2011, I caused the foregoing  
**Declaration of Thomas G. Pasternak in Response to the Joint Administrative  
Request to File Documents Under Seal (Docket No. 507)**, to be electronically filed  
with the Clerk of the Court using the CM/ECF system which will send notification of  
such filing to the following:

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20 *Attorneys for Defendant*

21 GOOGLE INC.

22 I declare under penalty of perjury under the laws of the United States that the  
23 foregoing is true and correct.

24 /s/ Jennifer B. Bonneville